



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Richard F. Cummins
Cumberland Oil Terminal
7260 Centennial Blvd
Nashville, Tennessee 37209
rfcumberlandoil@aol.com

Dear Mr. Cummins:

Pursuant to Section 114(a)(1) of the Clean Air Act (the Act), 42 U.S.C. § 7414(a)(1), you are hereby requested to provide the U.S. Environmental Protection Agency with information relating to the Cumberland Oil Terminal (Cumberland) facility located in Nashville, Tennessee. This information is needed to determine whether Cumberland is in compliance with requirements of the Act and its implementing regulations. Section 114(a) of the Act, 42 U.S.C. § 7414(a), authorizes the Administrator of the EPA to require any person who owns or operates an emission source, whom the Administrator believes may have information necessary for the purposes set forth in Section 114(a), or who is subject to any requirement of the Act, to provide such information as the Administrator may reasonably require for the purpose of carrying out any provision of the Act. This authority has been duly delegated to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review and follow the instructions in and, where required, complete the following enclosures: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Information Request (Enclosure 4), and Statement of Certification (Enclosure 5).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after Cumberland's receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request. This information must be submitted electronically to the following individual:

David Lloyd
Physical Scientist
Air Enforcement Branch
Enforcement and Compliance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
lloyd.david@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) issuance of an order requiring compliance with this request; (2) issuance of an administrative penalty order pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d); (3) commencement of a civil action in accordance with Sections 113(b) of the Act, 42 U.S.C. §§ 7413(b); and/or (4) any other action authorized under the Act.

Under Section 114(c) of the Act, 42 U.S.C. § 7414(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA that involves trade secrets and which Cumberland regards as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 114(c) of the Act, 42 U.S.C. § 7414(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to Cumberland. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Cumberland. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Mr. David Lloyd at (404) 562-9216 or at lloyd.david@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures: 1 – Instructions
2 – Definitions
3 – Claiming Confidentiality
4 – Information Request
5 – Statement of Certification

cc: John Finke, Director, Air Pollution Control Division, MPH
Eric McCann, Engineer, Air Pollution Control Division, MPH

ENCLOSURE 1

Instructions

Each of the following instructions applies to each and every Request contained in Enclosure 4.

1. Provide a separate response to each and every Request, and each and every subpart of a Request.
2. If the company has no responsive information or documents pertaining to a particular Request, submit an affirmative statement and explanation.
3. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
4. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
5. Where a Request requires the submission of an electronic spreadsheet, please provide the spreadsheet as an unlocked, Microsoft Excel file. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Microsoft Excel.
6. Identify each person whom you relied on or consulted with in preparing your responses to each Request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
7. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
8. Please submit your response to this information request to the EPA electronically. You may submit your response using any of the following options: (A) via email to Mr. David Lloyd at lloyd.david@epa.gov; (B) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or (C) as electronic files on a USB drive or CD sent by mail to: David Lloyd, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files please select option B or C above.

9. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit please send them as electronic files on a USB drive or CD by mail (option C).
10. Prior to submitting your response, please send an email to Mr. David Lloyd at lloyd.david@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

1. The terms **“document”** and **“writing”** and the plural forms thereof shall mean all written, recorded or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this request, and which are in the company’s possession, custody or control or to which the company has or has had access. The terms “document” and “writing” shall include, but are not limited to: any receipts; invoices; shipping records; purchase orders; purchase records; books; pamphlets; periodicals; memoranda (including those of telephone or oral conversations); contracts; correspondence; agreements; applications; financial records; security instruments; disbursements; checks; bank statements; time records; accounting or financial records; notes; diaries; logs; facsimiles (faxes); telegrams or cables prepared, drafted, received or sent; electronic mail (email), whether drafted, received or sent; tapes; transcripts; recordings; minutes and notes of meetings; directives; work papers; charts; drawings; prints; flow sheets; photographs; infrared camera recordings; film; computer printouts; x-ray photographs; advertisements; catalogs; data; sampling reports, plans, protocols, reports, analyses; or any handwritten, recorded, transcribed punched, taped, filmed or graphic matter, however produced or reproduced.
2. The terms **“person”** and/or **“persons”** shall have the meaning set forth in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.
3. The terms **“relate to”** and/or **“pertain to”** (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
4. The terms **“you”** and/or **“your”** shall mean Cumberland Oil Terminal (Cumberland or Company), and all its agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Cumberland, or who may have obtained information for or on behalf of Cumberland.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Information Request

Please provide the following information using the instructions and definitions provided in Enclosures 1 and 2. A response must be sent to the EPA no later than 30 calendar days after Cumberland receives this request.

1. Provide the following general facility information:
 - a. The approximate date the facility was first constructed and began operations as a petroleum terminal;
 - b. A description of the facility ownership history during the past 10 years;
 - c. A description of any substantial physical or operational changes during the past five (5) years (i.e. terminal capacity expansion, changes made to storage tank pollution control equipment, additional truck loading bays, new control devices associated with the loading racks);
 - d. The facility's typical operational schedule;
 - e. The number of employees;
 - f. A facility site layout; and
 - g. An overview of the facility's current operations, including a description of all products managed at the facility, how they are stored, how are they received, and how they are loaded for offsite transport.
2. Provide the following information related to storage tanks at the facility:
 - a. A list of each tank that has been in gasoline service, or storing a gasoline blend stock, within the last five (5) years. This list should include the tank identification number, the designed capacity, the date that the tank was put in service, and the type of tank (e.g., internal floating roof, external floating roof, geodesic dome, etc.);
 - b. The annual throughput for each tank listed in question 2.a. for the last five (5) calendar years;
 - c. A listing and description of operations for any heated tanks; and
 - d. A listing and description of any product blending conducted within any storage tanks.
3. Provide the following notifications and reports:
 - a. Initial Notification, as specified in 40 CFR Part 63 Subpart BBBBBBB §63.11093(a);
 - b. Notification of Compliance Status Report, as specified in 40 CFR Part 63 Subpart BBBBBBB §63.11093(b), including the initial submittal as well as any updates or revisions with any associated attachments;
 - c. All facility annual compliance certifications from January 1, 2017, to the date of this request; and
 - d. All semi-annual compliance reports from January 1, 2017, to the date of this request, as specified in 40 CFR Part 63 Subpart BBBBBBB §63.11095.
4. For the tanks identified under 2.a., provide the following information:
 - a. Indicate all State and Federal air regulations currently applicable to each specific tank along with the date each tank became subject to the regulation;

- i. Include the compliance option under Table 1 of 40 CFR Part 63 Subpart BBBBBB (e.g., 2(b), 2(c), 2(d), etc.) as required in §63.11093(b);
 - b. For all internal floating roof tanks, any out of service inspection reports, including, but not limited to, those inspections conducted in accordance with 40 CFR Part 63 Subpart BBBBBB §63.11092(e), within the last 10 years;
 - c. For internal floating roof tanks, all through-the-hatch inspection reports for internal floating roof tanks as required by 40 CFR Part 63 Subpart BBBBBB §63.11092(e)(1) within the last five (5) years;
 - d. For internal floating roof tanks, any records and supporting data related to the measurement of organic vapor concentrations, such as lower explosive limit measurements, taken within the headspace of any tank between the floating roof and fixed roof. If applicable, describe the methodology and procedures used for these measurements and tank operating conditions noted during the measurements;
 - e. For all external floating roof tanks, the most recent five-year in-service roof inspection report and associated tank wall primary seal gap measurements as required by 40 CFR Part 63 Subpart BBBBBB §63.11092(e)(2);
 - f. For all external floating roof tanks, the last five (5) years of annual in-service roof inspection reports and associated tank wall secondary seal gap measurements as required by 40 CFR Part 63 Subpart BBBBBB §63.11092(e)(2);
 - g. The last five (5) years of tank maintenance history, including work orders and invoices for repairs for components in item 4.h. (ix-xv);
 - h. Floating roof tank design characteristics, including:
 - i. Date of construction;
 - ii. Modification or reconstruction date;
 - iii. Volume capacity of each tank (gallons/barrels)
 - iv. Maximum liquid height of tank;
 - v. Floating roof type and material;
 - vi. Deck seam type (e.g. welded, bolted);
 - vii. Type of tank shell (e.g., welded or riveted);
 - viii. Type of roof support;
 - ix. Number and type of rim vents;
 - x. Number and type of guide poles, along with installation date;
 - xi. Number and type of pressure and or vacuum vents;
 - xii. Number of floating roof legs, and high and low position heights;
 - xiii. Type and date of installation of current primary seal;
 - xiv. Type and date of installation of current secondary seal; and
 - xv. Additional control devices (e.g., leg socks, gauge pole wiper, pole float, etc.).
 - i. Describe and provide tank emission calculations for Volatile Organic Compounds (VOC) and Hazardous Air Pollutants for the past three (3) years in electronic format for the above tanks. PDF or electronic spreadsheet versions of submitted emissions inventories are acceptable.
5. For all truck loading rack(s) at the facility, provide the following:
- a. The number of truck loading racks;
 - b. The number of bays at each rack;
 - c. The typical truck loading rack schedule of operations;
 - d. A listing of all products that are truck-loaded;

- e. A description of the measures taken to ensure that each truck that is loaded meets vapor tightness requirements;
- f. A description of the program used to for leak detection for equipment in gasoline service;
- g. A description of the measures taken to ensure that trucks are not loaded at a pressure greater than 450 mm of water (4,500 pascals);
- h. For each pressure relief valve (PRV) located between the point of vapor recovery at the loading rack and any emissions control device, documentation that shows the relief (opening) pressure of the valve (e.g. photograph of the nameplate);
- i. For all truck loading rack emissions control devices, a copy of the most recent performance test report;
- j. A description of the monitoring method used for determining continuous compliance with the applicable VOC limit;
- k. The underlying data, calculations, engineering assessments, and manufacturer's recommendations used in determining the any truck rack control device's operating parameters;
- l. For any truck loading rack vapor combustion unit (VCU): Records (electronic spreadsheet) of continuous parameter monitoring system (CPMS) temperature data used to demonstrate compliance with the applicable VOC limit, from January 1, 2019, to the date of this request;
- m. For any truck loading rack vapor recovery unit (VRU): Records (electronic spreadsheet) of continuous emissions monitoring system (CEMS) data used to demonstrate compliance with the applicable VOC limit, from January 1, 2019, to the date of this request;
- n. For any truck loading rack flare:
 - i. documentation that the flare and associated vapor collection system is in compliance with the requirements in §63.11(b) and 40 CFR 60.503(a), (b), and (d);
 - ii. documentation of the flare design (i.e., steam-assisted, air-assisted, or non-assisted); and
 - iii. all visible emissions readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the compliance determination evaluation.
- o. Provide records (electronic spreadsheet) of the monthly product (i.e. gasoline, ethanol) throughput for the truck loading rack from January 1, 2018, to the date of this request.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)